



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 26, 1996

Mr. Claud H. Drinnen  
Assistant City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR96-0403

Dear Mr. Drinnen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39233.

The City of Amarillo (the "city") received a request for:

1. Amarillo Police Department Investigation Reports pertaining to and/or naming [Daryl Warren Bean, Joseph Erik Bean, or Lonette Idell Bean] as a suspect, witness, or complainant. To include all written reports, field interview reports, auto accident and/or office dispatch numbers where no report narrative was produced.
2. Jail Records or Reports pertaining to and/or naming [Daryl Warren Bean, Joseph Erik Bean, or Lonette Idell Bean] as a suspect, witness, or complainant or regarding the incarceration of same.

You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.<sup>1</sup>

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<sup>1</sup>We note that to the extent that the requestor is seeking information on suspects, the requestor is in essence asking the city to compile criminal history information. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. See *United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). We caution the city that compiling such criminal history information on suspects and releasing that information to a requestor is impermissible under section 552.101 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590. However, the repealing bill provides that "[c]onduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591. The requested information in the three incident reports that concern juvenile offenders concerns conduct that occurred before January 1, 1996.

At the time the conduct occurred, the applicable law in effect was Family Code section 51.14 which provided, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code<sup>2</sup> to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure<sup>3</sup> applies. Moreover, we do not understand any of the exceptions to former section 51.14(d) to apply here. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (former Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the city must withhold the requested information in these three incident reports in its entirety under section 552.101 of the Government Code as information deemed confidential by law.

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<sup>2</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>3</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

You next claim that the remaining three incident reports are confidential under common-law privacy and section 261.201 of the Family Code. Section 261.201(a) of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report;

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

The other provisions of section 261.201 do not appear to apply here. We are not aware of any rules promulgated by the city which permit the dissemination of this type of information. Accordingly, we agree that these three incident reports are made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying predecessor to Fam. Code § 261.201(a)).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 39288

Enclosures: Submitted documents

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